June 4, 2003

IN RE: DOCKET NO. 2002-416-C – Proceeding for the establishment of a requirement that non-facilities based CLEC's providing prepaid local telephone service be required to post an appropriate Surety Bond.

COPY OF **TESTIMONY OF DONALD L. ALDRIDGE ON BEHALF OF THE NATIONAL ALEC ASSOUCIATION/PREPAID COMMUNICATIONS ASSOCIATION** HAS BEEN DISTRIBUTED TO THE FOLLOWING:

____
J. McDaniel

____
Legal

____
Exec. Asst.

____
Exec. Director

____
Manager, Utils Dept.

____
Audit (1)

____
Commissioners (7)

pao

PARKER POE

PARKER POE ADAMS & BERNSTEIN L.L.P.

Attorneys and Counselors at Law

Faye A. Flowers
Special Counsel
Telephone: 803.253.8912
Direct Fax: 803.255.8017
fayeflowers@parkerpoe.com

1201 Main Street
Suite 1450
P.O. Box 1509
Columbia, SC 29202-1509
Telephone 803.255.8000
Fax 803.255.8017
www.parkerpoe.com

June 4, 2003

Via Hand Delivery

Mr. Gary E. Walsh, Executive Director
South Carolina Public Service Commission
Synergy Business Park
101 Executive Drive
Columbia, SC 29210

Re: Generic Proceedings to Review Requirements for Competitive Local Exchange Carriers Providing Prepaid Local Exchange; Docket No. 2002-416-C

Dear Mr. Walsh:

Enclosed for filing with the Commission please find the original and 25 copies of the Prefiled Testimony of Donald L. Aldridge on behalf of The National ALEC Association/Prepaid Communications Association in the above docket. Please have the additional copy clocked-in and returned to our courier.

By copy of this letter, we are serving all parties of record with the same. If you have any questions concerning the enclosed, please feel free to contact me. With best regards, I am

Very truly yours

Faye A. Flowers

Faye A. Flowers

FAF/ccq
Enclosures

cc: Patrick W. Turner, Esquire (*w/enc.*)
F. David Butler, Esquire (*w/enc.*)
Elliot F. Elam, Jr., Esquire (*w/enc.*)
Mr. Stan J. Bugner (*w/enc.*)
Larry D. Kristinik, Esquire (*w/enc.*)
Margaret Fox, Esquire (*w/enc.*)

CHARLOTTE, NC
RALEIGH, NC
SPARTANBURG, SC

COL 35475v1

BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

IN RE: Generic Proceeding to Review Requirements for Competitive Local Exchange Carriers Providing Prepaid Local Exchange	)	Docket No. 2002-416-C

PREFILED TESTIMONY OF DONALD L. ALDRIDGE ON BEHALF OF THE NATIONAL ALEC ASSOCIATION/ PREPAID COMMUNICATIONS ASSOCIATION

Q. Please state your name, business address and occupation.

A. Donald L. Aldridge, President and Chief Financial Officer, AmeriMex Communications, Inc., 1078 Alpharetta Street, Suite 9, Roswell, GA 30075. My phone number is 678 290-1500.

Q. Please state your business experience and educational background.

A. I have more than 10 years in the telecommunications industry. In 1998, I founded AmeriMex . Today we provide local exchange services to residential consumers in seven states, either through resale of incumbent local exchange carrier ("ILEC") facilities or leasing of unbundled network elements. I also founded The Cellular Network Inc., which was a cellular reseller in Atlanta that I sold in 1998. Before my involvement with AmeriMex, I served as the Chief Financial Officer of two telecommunications companies, one of which I led through an initial public offering. I have an undergraduate degree in accounting from Bob Jones University and an MBA from Virginia Tech. I am also a Certified Public Accountant.

Q. On whose behalf are you testifying?

A. Today I am testifying on behalf of the National ALEC Association/Prepaid Communications Association ("NALA"). NALA is a trade association comprised of companies that provide local telephone service to hundreds of thousands of residential consumers nationwide, including within the state of South Carolina. NALA members' core customers are those that historically have been considered high risk – due, for example, to a poor or no credit history; to lack of ability to meet the ILEC's residency requirements to lack of a requisite deposit required by the ILEC or due to a prior unpaid balance with an ILEC. Many of these consumers are unable to obtain telephone service from the ILEC. For these consumers, the local service our members provide is often the customer's only option. NALA represents its members' interests primarily before federal and state regulators. The association has 39 members, including 27 providers of local telephone service.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to respond to the Commission's request for comments concerning the regulation of prepaid local service providers.

Q. Do you have any general observations?

A. Yes. NALA opposes increased regulation of competitive local exchange carriers, particularly regulations specifically targeted to prepaid local carriers. All of us are operating in a highly competitive marketplace that allows consumers –even those prepaid local exchange service customers served by NALA members – to freely switch between carriers. As a result, competition, not regulation, should govern the telecommunications marketplace. Increased regulation increases costs, which are usually reflected in higher rates for end users.

I am also concerned that the Commission is casting a wide net when it refers to so-called "prepaid" local service providers as somehow uniquely different from other CLECs and LECs. NALA members incur all of the risks common to LECs and CLECs. Our members are exposed to management and advertising expenses, initial exposure to high connection charges imposed by ILECs, uncollectible billing amounts, customer service problems, and competition from all avenues of the entire telecommunications industry. This last point, namely competitive pressures, is exemplified by many of our members' experiences in meeting competition from such large CLECs as MCI and AT&T who regularly solicit our customer base and migrate tens of thousands of our members' lines.

As for billing, there is little difference between how NALA members and other local exchange carriers bill for services after the first month. For example, a customer who enrolls for service on the first day of the month with a prepaid carrier will normally be assessed a modest connection fee and the line charges for the coming month. ILECs such as BellSouth often demand sizable deposits in advance of providing service from the customers we service. Beyond this point, however, there is little difference in the relationship between NALA members and their customers and the relationship between BellSouth and its customers.

In both cases NALA customers and BellSouth customers will receive a bill for the next month's service, requesting payment for the upcoming month. The term "post billed" customer is something of a misnomer since ILECs regularly bill their customers in advance for the coming month's service. If the customer does not pay by the stipulated due date, the carrier will send a notice of suspension or disconnection in compliance with state commissions' rules. As a result, a customer may have service from 10-30 days past the initial service period. As with any CLEC or ILEC, the ultimate goal of NALA members is to keep the customer on the service and not disconnect the line. Since prepaid carriers do not take deposits, they will remain responsible to their underlying carriers for the additional, unpaid days of service, regardless of whether the customer ever pays the prepaid carrier. NALA questions whether such a *de minimus* distinction warrants such disparate financial treatment from the Commission for so-called "prepaid" carriers.

Q. Have you reviewed the staff testimony in this proceeding?

A. Yes, I have. In his testimony, Mr. McDaniel recommends that the Commission establish a bond requirement for carriers providing prepaid local service. He further suggests that the size of the bond should be based on the formula used by the Louisiana PSC, which formula requires a minimum bond amount of $50,000. Mr. McDaniel also recommends the adoption of a rule that allows a contractual agreement between a consumer and a prepaid local service provider, as discussed in Exhibit JMM-2. Finally, Mr. McDaniel discusses the waivers requested by a prepaid local service provider during a recent certification proceeding.

Q. Do you have any comments on staff's recommendations?

A. I do. NALA strongly opposes a bond requirement for prepaid local service providers. As an initial matter and as noted earlier, it is difficult to distinguish a prepaid carrier from a traditional carrier, such as BellSouth, as both bill recurring charges in advance.

Moreover, the Commission as part of its certification process reviews the financial capability of all applicants, not just providers of prepaid local service. Indeed, there is no evidence in the record that prepaid providers go out of business with any more or less frequency than other competitive providers of local service.

While Mr. McDaniel references Louisiana's bond requirement, he does not indicate whether the Louisiana PSC has ever had to distribute the funds provided under the bond requirement to reimburse customers or pay for their service as a result of a financially troubled prepaid carrier. My knowledge and experience in the industry leads me to suspect that the bond has rarely if ever been used.

One reason for my belief that requiring a bond is not the appropriate response to a rare problem is that administering the bond would likely be a nightmare for Commission staff Refunding money to individual customers of a defunct company would be extremely difficult. If a prepaid telephone company's customers were disconnected by the incumbent carrier, due to various billing cycles, the amount of refund due customers would most likely vary over a wide range. As an example, some customers may be due a refund of five days, some eight days, some 18 days and so forth. In order to identify the customers and compute the refunds, the staff of the prepaid company, using the company's computer systems, would have to assist whomever was handling the refund. If the prepaid company's customers have lost their telephone service, the prepaid carrier is most likely going to have ceased operations, all personnel will have been terminated and information systems would not be available. This type of situation, which is exactly what the bond is designed in theory to address, would make the task of administrating refunds difficult, if not impossible.

A second reason I do not favor the bond requirement is that companies in financial distress have a strong economic incentive to sell their customer base to another carrier before exiting the market. In this circumstance, there is no harm or risk to the end user.

Also, the underlying carrier itself may offer to serve as an alternative provider of service to the end user when the customer's current provider ceases to do business. In fact, in Florida and Kentucky, for example, BellSouth has been required or requested to file an Emergency Continuation Tariff that requires BellSouth to provide end users service for two weeks following a CLEC's abandonment of its customers. The arrangement calls for BellSouth to be compensated for providing such interim services at specified rates by the new carrier chosen by the customer.

A final reason I do not agree with the bond requirement is because BellSouth's standard interconnection agreement requires that resellers provide up to two month's deposit, providing adequate protection for BellSouth to continue providing service to customers after a CLEC ceases paying it. There is little reason therefore to think that end users are currently inadequately protected.

In contrast, the burden of a bond requirement on prepaid carriers is quite significant. The bond, even when it is not itself unduly expensive, ties up a significant amount of money, which could otherwise be spent on expanding services or enhancing infrastructure. This is true even if a carrier obtains a surety bond because the bond amount counts against the carrier's available credit.

Moreover, in today's general economic climate for telecommunications carriers, it has become increasingly difficult, if not impossible, to obtain a surety bond. Some carriers in order to obtain a bond have been asked to provide to bonding companies dollar-for-dollar collateralization (*i.e.* a pledge of assets equal to the bond amount). Similarly, in order to obtain a letter of credit from a bank, the bank will require cash in accounts at that bank equal to or greater than the amount of the letter of credit. This unavailability of capital will restrain prepaid carriers to the advantage of other carriers who could use these resources for marketing, product development, facilities enhancement or carrier acquisition.

A bond requirement may also reduce the number of companies that enter the prepaid marketplace. Other companies may curtail or eliminate service in South Carolina in the face of a burdensome bond requirement. In my own personal experience, my company, AmeriMex, filed for authority in Louisiana but withdrew the application when it learned of the $50,000 minimum bond requirement. Most prepaid carriers are small businesses and they cannot afford to tie up limited capital in escrow accounts and bonds, particularly when they may be serving only hundreds of customers in a state during the first year of operation. Fewer CLECs mean fewer choices for the people of South Carolina.

The additional problem with the Louisiana approach is the variability of the amount and the requirement to update that amount quarterly based on the number of customers. Bonds are typically for a fixed amount for a fixed period of time. Even if you could find a bonding company or bank willing to do this, I suspect the additional fees would be burdensome. Moreover, the additional reporting requirement adds administrative costs for prepaid carriers. All of these costs will eventually find their way into higher rates for end users. Thus the Commission should not adopt a proposal for which there appears to be no problem and which will hurt all end users without any appreciable benefit.

Finally, the FCC and the Commission have customer notice requirements before a carrier can discontinue service. A carrier that complies with the law will have provided ample notice to its customers that it is going out of business; allowing customers time to switch to another carrier. In essence, the bond requirement will only be useful for the customers of carriers that do not comply with the law and who shut down service without notice. The Commission should not create rules affecting all carriers in order to address the actions of a few mismanaged companies.

Q. **Do you have any suggestions if the Commission chooses to adopt a bond requirement?**

A. Yes. The Commission should adopt a fixed reasonable bond amount, $5,000, for all local service providers that accept deposits or bill any portion of their charges in advance. This fixed, reasonable bond is consistent with what the Commission has already done with prepaid calling card providers. There should not be any requirements for adjustment of the amount or for quarterly reports. Moreover, carriers should have the option to use a bond, a cash deposit, or a letter of credit.

Q. **Do you have any comments on Mr. McDaniel's proposal to allow for contracts between prepaid local service providers and their customers, similar to what is permitted in North Carolina?**

A. Yes. I agree that prepaid providers should be able to have service contracts with their customers which we in NALA believe serve the public interest better in informing consumers than do tariffs filed at commissions. We also agree that the contract should include a full description of the billing process, the past due date, the date on which service may be discontinued for nonpayment of regulated charges, an option for the customer to choose a PIC freeze, a statement that the customer could file a complaint with the Commission and contact information for the Commission.

Q. Do you have any comments on the waiver request concerning notice and late payment charges?

A. Yes. I think the Commission should grant waivers of the limitation on late payments charges and the notice requirements for termination of service. In particular, if the Commission allows prepaid local service providers to have written agreements with their customers, then the customers will have been provided information concerning late fees and disconnection policies. We have a very high turnover rate. Many of our customers have a history of losing service for nonpayment and it does not serve their interests or ours to extend the grace period for payment, unless there is a medical emergency. As an industry we need to maintain very rigid standards otherwise we will have to pay our underlying carriers for services provided to customers for which we will never be paid – again driving up our cost of doing business, which must be recovered from the customers that do pay their bills on time.

Q. Does this conclude your testimony?

A. Yes.

Certificate of Service

The undersigned hereby certifies that on June 4, 2003, she served a copy the foregoing Prefiled Testimony of Donald L. Aldridge on all known parties of record by placing a copy in the United State Mail, first class postage prepaid, addressed as follows:

Patrick W. Turner, Esquire
BellSouth Telecommunications, Inc.
1600 Williams Street, Ste. 5200
Columbia, SC 29201

F. David Butler, Esquire
General Counsel
SC Public Service Commission
Synergy Business Park
101 Executive Center Drive
Columbia, SC 29210

Elliot F. Elam, Jr., Esquire
South Carolina Department of Consumer Affairs
PO Box 5757
Columbia, SC 29250-5757

Mr. Stan J. Bugner
1301 Gervais Street, Suite 825
Columbia, South Carolina 29201

Larry D. Kristinik, Esquire
Nelson Mullins Riley & Scarborough
PO Box 11070
Columbia, South Carolina 29211

Margaret Fox, Esquire
McNair Law Firm
PO Box 11390
Columbia, South Carolina 29211

Columbia, South Carolina